

**MINUTES
BOARD OF VARIANCE
KIRBY ROOM, SAANICH POLICE BUILDING, 760 VERNON AVENUE
WEDNESDAY, OCTOBER 14, 2020 AT 6:00 P.M.**

Members: H. Charania (Chair), E. Dahli, D. Gunn, M. Horner, R. Riddett

Staff: K. Kaiser, Planning Technician, S. deMedeiros, Planning Technician, T. Douglas, Senior Committee Clerk

Minutes: **Moved by D. Gunn and Seconded by M. Horner: “That the minutes of the Board of Variance meeting held September 9, 2020, be adopted as circulated.”**

CARRIED

Scolton Road Fence
BOV #00870
Applicant: Victoria Stevens
Property: 3921 Scolton Road
Variance: Relaxation of height from 1.5 m to 2.5 m

The Notice of Meeting was read and the applicant’s letter received.

Applicants: Victoria Stevens, applicant/owner, was present via teleconference, in support of the application and stated that her hardship is the inability to follow the Saanich Climate Plan and grow food due to the Bylaw requirements.

Public input (via telephone): Gary McCoey, Scolton Road:

- Is opposed to the structure; it is an enclosure that does not fit in with the neighbourhood.
- Expressed concern about a community garden drawing in strangers and potential crime. There are established community gardens elsewhere.
- Renovated their own home within the Bylaw constraints. Is concerned precedent could be set if approved.

Rod Abbott, Scolton Road:

- This is not a minor variance, the structure is significantly over height.
- This is an urban area and the structure is unsightly and stands out.
- The applicant’s intent to create a community garden does not meet the Community Gardens Bylaw requirements.

Patricia Abbott, Scolton Road:

- Feels it would be unfair if this is approved.

Board member asked neighbours if anything would make the structure more acceptable, and the following responses were noted:

- The enclosure would be acceptable if it met the height requirement, or if it was placed in the back yard.
- The main problem is the height. This is more suitable for a hobby farm, not an urban area.

Board members asked questions of the applicant and the following responses were provided:

- The structure is currently located on the boulevard; the intent is to move the existing structure back to the property line.
- Regardless of whether the height variance is granted or not, the structure will remain and will be moved to the property line.

- They already have a backyard garden. The front garden is intended to be a community garden/food forest for the neighbours on the block.
- This is a better use of the space as opposed to a lawn. Support from neighbours has been received.
- The structure will be eventually covered by vining plants and hedging, and this will take time to grow.
- A proposed community garden is not the issue, the fence height is the issue.
- There are string lights up in the area because of a recent movie shoot.
- A key hardship is the deer. If denied, they will lower the height but will keep the structure.

In reply to questions from the Board, the Planning Technician stated:

- This structure is considered a fence.
- The permitted height for a fence in the front yard is 1.5 metres.
- The front setback is 7.5 metres and this is where the applicant has proposed to move the fence.

Board discussion:

- The fence as built is not in the proposed location and is difficult to imagine. Suggestion made to table item to allow applicant to mark the setback and height and also give them opportunity to discuss this with concerned neighbours.
- Point made that decisions are regularly made for house plans without seeing the structure, and a decision can be made based on the submitted information.

MOTION: **MOVED by R. Riddett and Seconded by D. Gunn: “That the request for variance from the requirements of Zoning Bylaw 2003, Sections 6.2(f), to allow a garden fence on Lot 4, Section 44, Victoria District, Plan 1518 (3921 Scolton Road) be TABLED in order to allow the applicant to clearly mark out the setback and height of the proposed structure, and also give the applicant time to discuss this with the concerned neighbours.”**

**The Motion was then Put and CARRIED
With H. Charania and M. Horner OPPOSED**

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| Regina Avenue New house BOV #00878 | Applicant: Victoria Design Group OBO Jenna Angrove & Patrick Laing Property: 79 Regina Avenue Variance: Relaxation of combined side yard setbacks from 4.50 m to 3.05 m Relaxation of overall height from 6.0 m to 6.81 m Relaxation of overall height from 5.0 m to 5.74 m (flat roof) Relaxation of single face height from 6.0m to 7.00m (sloped roof) Relaxation of non-basement floor area from 80% to 98.11% |
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The Notice of Meeting was read and the applicant’s letter received.

Applicants: Will Peereboom, Victoria Design Group, applicant, and Jenna Angrove and Patrick Laing, owners, were present via teleconference in support of the application. The applicant stated:

- This application is similar to the one approved in 2018, and has the same footprint and floor area.
- The pitch of the roof is slightly lower than it was in the previous design.
- The box bays trigger the variance.

- The smaller size lot has a lower height allowance.

In reply to a question, the Planning Technician confirmed that a previously granted variance made by different owners has expired and no longer relevant.

In reply to questions from the Board, the applicant stated:

- The key hardship is in the side yard as the overall lot width is 7.62 metres.
- The owners have three children and live modestly, but they do need more space; the existing house is only about 1,000 square feet.
- The height of the main floor ceiling is 9 feet and the top floor ceiling is vaulted and ranges between 8 feet and higher.
- The over-height ridge of this home design is approximately 1 ½ feet lower than the previously approved design.
- The ceiling height roof could be lowered but the home would not be as aesthetically pleasing.
- In comparing adjacent properties the proposed house is well under height, it is just an undersized lot.
- The west side of the lot is the lowest portion of the property.

Public input (via telephone):

Gaelle Madevon and Adrian van Erp, Regina Avenue:

- Had mistakenly thought the application was for a flat roof. They no longer have concerns about the roof.
- Asked if the house could be moved toward the east, closer to the empty lot.

In reply to the neighbours and further Board comments the applicant stated:

- Due to the setback requirements, moving the building over would trigger another variance and would also affect the fire rating.
- There are easements on the property on the back and on the west side.
- The physical size of the lot is a hardship.

Board discussion:

- The design considerations impact the height.
- The flat roof is only in two small sections on the left elevations and are of little impact.

MOTION:

MOVED by R. Riddett and Seconded by E. Dahli: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 5.27 a), 210.4(a)(ii), and 210.4(c), further to the construction of a single family dwelling on Lot 7, Section 14, Victoria District, Plan 877 (79 Regina Avenue):

- Relaxation of combined side yard setbacks from 4.50 m to 3.05 m
- Relaxation of the overall height from 6.0 m to 6.81 m
- Relaxation of the overall height from 5.0 m to 5.74 m (flat roof)
- Relaxation of single face height from 6.0 m to 7.00 m (sloped roof)
- Relaxation of non-basement floor area from 80% to 98.11%

And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire."

Board comments:

- The designer worked within the constraints of the property.

- There is a hardship in the size of the lot.
- The lower side of the slope is on the neighbour's side.
- This is a minor variance and the neighbour does not object to the height.
- Higher ceiling heights are becoming the new standard and the Board will need to make decisions on height variances until the Bylaw is changed.
- The ceiling height is a choice and not a hardship.
- This is a small house on a small lot and the proposed height is not minor.

**The Motion was then Put and CARRIED
With D. Gunn OPPOSED**

Hartland Road
Accessory
Building

Applicant: Glenn and Jan Mahoney
Property: 30 Hartland Avenue
Variance: Relaxation of height from 3.75 m to 4.46 m (A-1 Zone)
Relaxation of height from 3.75 m to 4.46 m (A-4 Zone)

BOV #00879

The Notice of Meeting was read and the applicant's letter received. Mr. Charania disclosed that he met with the applicant on the site visit.

Applicants:

Glenn Mahoney, applicant/owner was present via telephone and stated they kept the 3:12 pitch, the office area has an 8' ceiling and the garage side has a 10' ceiling. He also has spoken with the affected neighbours about this project.

In reply to questions the applicant stated:

- They chose this site because it is a flat spot on an otherwise rocky and treed property. It is also a good distance away from a stream-side designated area of the property.
- The site is also near the existing house and will serve as a garage.
- The stepped design allows for enough room in the gravel driveway to turn a vehicle into the garage.

Public input:

Nil

MOTION:

MOVED by D. Gunn and Seconded by M. Horner: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 101.7(b) and 125.8(b), further to the construction of an accessory building on Lot 1, Section 128/129, Lake District, Plan 29006 (30 Hartland Avenue):

- a) Relaxation of height from 3.75 m to 4.46 m (A-1 Zone)
- b) Relaxation of height from 3.75 m to 4.46 m (A-4 Zone)

And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire."

Board comments:

- The topography of the lot along with the protected areas pose a hardship.
- The garage is stepped down, which mitigates the impact.

The Motion was then Put and CARRIED

Lochside Drive
Fence
BOV #00882

Applicant: Melissa Wilson
Property: 4965 Lochside Drive
Variance: Relaxation of height (front yard fence) from 1.5 m to 2.44 m
Relaxation of height from 1.9 m to 2.44 m

The Notice of Meeting was read and the applicant's letter received. Mr. Charania advised that he met with the applicant on the site visit.

Applicants:

Melissa and Mike Wilson, applicant/owners, and Tayler Krawczyk, designer, were present via telephone in support of the application. The applicant stated:

- They use food from the garden every day and need to protect it from deer.
- In researching appropriate heights to keep deer away, they found a minimum of 6' to 8' is necessary.
- They would like the bylaw to allow for all to grow vegetables.
- This is the only suitable place on the property to have a food garden as the back lawn has heavy shade.
- They have received overwhelming support for the fence from the community, including a petition.

In reply to questions from the Board, the applicant stated:

- The structure sits three feet from the property line.
- The hardship is having to cut and lower the fence which would make the structure less useful and allow the deer to destroy the plants. They spent a lot of money to make it attractive.
- The yard is lower than the street so the fence does not look overheight.

The designer stated:

- They used a trellis system with recycled fish netting; this is see through and will allow vining plants to climb.
- This is a temporary structure, similar to a trampoline. The posts are not in the ground; they sit on top of the ground.
- It would be against the Official Community Plan to deny this application.

In reply to a question, the Planner confirmed that the definition is broad in terms of fences or structures.

Public input:

Nil

MOTION:

MOVED by D. Gunn and Seconded by R. Riddett: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 6.2(f)(i) and (ii), further to allowing the existing garden fence to remain on Lot 1, Section 29, Lake District, Plan 16160 (4965 Lochside Drive):

- a) Relaxation of height (front yard fence) from 1.5 m to 2.44 m
- b) Relaxation of height from 1.9 m to 2.44 m."

Board comments:

- The structure sits below the road level, is off to the side, and is not intrusive.
- There is not a lot of room at the rear of the property.
- This does not present as a fence.
- Uncontrolled deer are a hardship.
- The neighbours are supportive.

**The Motion was then Put and CARRIED
With M. Horner OPPOSED**

Lambie Drive Addition
 BOV #00883
Applicant: Todd McKay Contracting OBO Wes & Heather Meiklejohn
Property: 635 Lambie Drive
Variance: Relaxation of rear lot line setback from 7.5 m to 4.04 m
Relaxation of combined front and rear setbacks from 15 m to 12.24 m

The Notice of Meeting was read and the applicant’s letter received. Mr. Charania reported that he met with the owner on the site visit.

Applicants: Wes and Heather Meiklejohn, owners, were present via telephone in support of the application and stated they are renovating what was already existing.

In reply to a question from the Board, the Clerk confirmed that four signatures of no objection were received.

The Chair noted that it was a small corner of the house that encroaches the setback. The Board had no questions for the owners.

Public input: Nil

MOTION: MOVED by M. Horner and Seconded by E. Dahli: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.4(a)(i), further to the construction of an addition to the house on Lot 26, Section 77, Victoria District, Plan 9600 (635 Lambie Drive):

- a) Relaxation of rear lot line setback from 7.5 m to 4.04 m
- b) Relaxation of combined front and rear setback from 15m to 12.24m

And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire.”

Board comments:

- This is a minor variance.
- It would be a great hardship to fix this.
- There are no objections from neighbours.
- The shape of the lot is a hardship.

The Motion was then Put and CARRIED

Telegraph Bay Road Fence
 BOV #00880
Applicant: Shujuan Zhang
Property: 3934 Telegraph Bay Road
Variance: Relaxation of front yard fence height from 1.5 m to 1.92 m

The Notice of Meeting was read and the applicant’s letter received.

Applicants: Shujuan Zhang, applicant/owner, was present via telephone in support of the application, and stated:

- The area the fence is located in is large and open.
- This year with the virus they have had to stay home which meant reduced grocery shopping. They decided to grow vegetables.
- Members in the household have health issues and there is nobody that can drive to the grocery store.
- The deer ate the food in the garden so they called a fence company to install a fence.

- They called the Planning department before installing the fence and were told that no permit was needed.
- The fence sits on a slope that is lower than the sidewalk.

Board discussion:

- This is a very long fence and is not intrusive.
- The fence company did not look into the bylaws, but did their other due diligence in calling about underground services.
- Speculation made that perhaps the fence company look at the CRD bylaw rather than Saanich's.
- Deer are a hardship and this is not a large request.
- The fence sits lower than the sidewalk and road, and is see through.
- There are no objections from the neighbours.
- There are many large fences in the neighbourhood.

Public input: Nil

MOTION: **MOVED by R. Riddett and Seconded by E. Dahli: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 6.2(f)(i), further to allowing an existing fence to remain on Lot A, Section 44, Victoria District, Plan 37835 (3934 Telegraph Bay Road):**

- a) **Relaxation of front yard fence height from 1.5 m to 1.92 m."**

The Motion was then Put and CARRIED

Pepin Court Addition

Applicant: Knot-in-a-Box Design Inc. OBO Rose & Mark Trinidad
Property: 4270 Pepin Court
Variance: Relaxation of non-basement floor area from 80% to 87.10%

BOV #00881

The Notice of Meeting was read and the applicant's letter received.

Applicants:

Todd Martin, applicant and Rose and Mark Trinidad, owners, were present via telephone in support of the application. The applicant stated that this design is for a young family that is now working from home. It was found that a past addition to the rear was done illegally and they would like to bring the building to code and put in a foundation.

In reply to questions from the Board, the applicant stated:

- The lot is the size of an RS-8 lot, but is zoned as RS-4.
- They spoke with the neighbours at 4271 and 4274 Pepin Court.
- The tree report was given as there is a protected tree that they do not want to impact. They will have to hand dig for one of the posts.

Public input: Nil

MOTION: **MOVED by D. Gunn and Seconded by E. Dahli: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 205.4(c), further to the construction of an addition to the house on Lot 18, Section 10, Lake District, Plan 39572 (4270 Pepin Court):**

- a) **Relaxation of non-basement floor area from 80% to 87.10%**

And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire."

Board comments:

- The shape and topography of the lot limits building areas.
- This property is mis-zoned.
- There are no setback variances required.
- There are no negative impacts to the neighbours or the environment.
- This is a minor 200 square foot addition.

The Motion was then Put and CARRIED

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| Tyndall Avenue Addition | Applicant: Premium Urban Designs OBO Sonny and Ann Markel |
| | Property: 4484 Tyndall Avenue |
| BOV #00884 | Variance: Relaxation of height from 5.0 m to 5.26 m Relaxation of single face height from 5.0 m to 5.62 m (sloped roof) |

The Notice of Meeting was read and the applicant's letter received.

Applicants:

Michael Schell, applicant and Sonny Markel, owner, were present via telephone in support of the application. The applicant stated:

- They have provided late signatures of support.
- In reply to a complaint from one neighbour, they do not have a view of the roof at all and there is no issue of privacy.
- The structure fits within the neighbourhood.
- Has discussed with the owner options to add landscaping along the fence line to screen the view at the north east side.

In reply to questions from the Board, the applicant stated:

- There were some design changes because of a tree. Once they started digging the foundation they realized they could not dig lower. They also changed the roof line so the structure does not touch the tree canopy.
- It was during the permit process that these changes occurred.
- The surveyor found out they are over height by about 10".
- The changes were due to the tree and root system and because they cannot dig down lower this is a hardship.
- This area is in the lowest portion of the property.
- They did not know about the error during the foundation stage.
- They did build according to the plans but it appears that the trusses may have also caused the structure to be over height.
- A covenant on the property affects the location of the structure.
- The structure is well built and supports the homeowner's need for more space.

The owner stated:

- This structure was built for their elderly parents; COVID-19 has made it important to build this for family.
- He does care about the neighbour's and asked them to call if they had concern; the complaints came in as a surprise.
- He did not know about the height constraints before building, and they have an extensive hedge of trees.

In discussing the plan design, it was noted that the set of drawings the Board was considering (with a two-way roof) was not the final design for which the applicant seeks approval.

In reply to questions from the Board, the owner stated that in terms of accessibility, the needs of his parents will change but at this time they can manage the seven steps in the building. They could install a chair on a rail in the future if necessary.

In reply to questions from the Board, the Clerk noted that there is no Geotech report or Arborist report in the file. Additionally, the latest plans submitted by the applicant were the set that was given to the Board.

Board discussion:

- The structure has two bedrooms, two bathrooms, a walk in closet and a laundry room.
- There are no reports from an Arborist or a Geotechnical engineer.
- The Covenant notes the tree.
- This is a 10A Zone which has a very specific height restriction for four lots.
- This property was spot-zoned to restrict the height intentionally. The Board should not violate the intent of this specific bylaw.
- The building is over height for unclear reasons.
- These are design considerations. If this was a single peak roof at 3:12, they may not need a variance.
- No undue hardship is seen.
- This is the result of many errors and seems minor.
- Even a minor variance is not acceptable in a specially zoned area.

In reply to a question, the Planner noted that during the original subdivision process the area was zoned as such in order to provide privacy to adjacent properties.

Public input: Nil

MOTION: **MOVED by D. Gunn and Seconded by R. Riddett: “That the following request for variances to relax the height from 5.0 m to 5.26 m and relax the single face height from 5.0 m to 5.62 m (sloped roof) from the requirements of Zoning Bylaw 2003, Sections 235.4(b)(i) and (ii), further to the construction of addition to the house on Lot 4, Section 84, Victoria District, Plan VIP55541 (4484 Tyndall Avenue) be DENIED.”**

**The Motion was then Put and CARRIED
With H. Charania OPPOSED**

Adjournment On a motion from M. Horner, the meeting was adjourned at 9:10 pm.

Haji Charania, Chair

I hereby certify that these Minutes are a true and accurate recording of the proceedings.

Recording Secretary